

AUG 16 2007

PTO/SB/26 (04-07)

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TERMINAL DISCLAIMER TO OBVIATE A DOUBLE PATENTING  
REJECTION OVER A "PRIOR" PATENTDocket Number (Optional)  
BGN-A013CNIn re Application of: Jeffrey L. BROWNING *et al.*

Application No.: 10/003,211-Conf. #6970

Filed: October 31, 2001

For: SOLUBLE LYMPHOTOXIN-BETA RECEPTORS AS THERAPEUTIC AGENTS FOR THE  
TREATMENT OF SYSTEMIC LUPUS ERYTHEMATOSIS

The owner, Biogen Idec MA Inc., of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term of prior patent No. 7,255,854 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

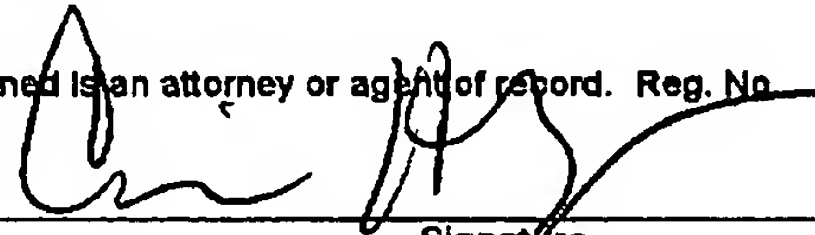
- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 55,281

  
\_\_\_\_\_  
Signature

August 16, 2007  
\_\_\_\_\_  
Date

Cristin E. Howley, Ph.D.  
\_\_\_\_\_  
Typed or printed name

(617) 994-0796  
\_\_\_\_\_  
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

\*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).  
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

08/20/2007 TNGUYEN2 00000046 100032.1

01-EP-1014 130-00-00

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Dated: August 16, 2007

Signature: 

(Cristin E. Howley, Ph.D.)

AUG 16 2007

Docket No.: BGNA013CN  
(PATENT)

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent Application of:  
Jeffrey L. Browning *et al.*

Application No.: 10/003211

Confirmation No.: 6970

Filed: October 31, 2001

Art Unit: 1642

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For: SOLUBLE LYMPHOTOXIN-BETA RECEPTORS  
AS THERAPEUTIC AGENTS FOR THE  
TREATMENT OF SYSTEMIC LUPUS  
ERYTHEMATOSIS

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Examiner: C. H. Yaen

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450**SUBMISSION OF TERMINAL DISCLAIMER**

Dear Sir:

In view of previous discussions with the Examiner regarding potential nonstatutory obviousness-type double patenting with respect to pending claims 55, 56, 59-62, and 64 of the instant application over claim 14 of U.S. Patent No. 7,255,854 (to which the instant application claims priority), Applicant hereby submits an executed terminal disclaimer in accordance with 37 C.F.R. 1.321(b) and (c). *The submission of the executed terminal disclaimer is not to be construed as an admission by the Applicant that the present claims are obvious over U.S. Patent No. 7,255,854.*

08/20/2007 TNGUYEN2 00000046 120080 10003211

01 FC:1814 130.00 DA

Application No.: 10/003211

Docket No.: BGNA013CN

Applicants submit herewith authorization to charge our Deposit Account No. 12-0080, under Order No. BGNA013CN from which the undersigned is authorized to draw for the fee associated with the terminal disclaimer under CFR 1.20(d). If any additional fee is due, please charge our Deposit Account No. 12-0080, under Order No. BGNA013CN from which the undersigned is authorized to draw.

Dated: August 16, 2007

Respectfully submitted,

By 

Cristin E. Howley

Registration No.: 55,281

LAHIVE &amp; COCKFIELD, LLP

One Post Office Square

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney For Applicant

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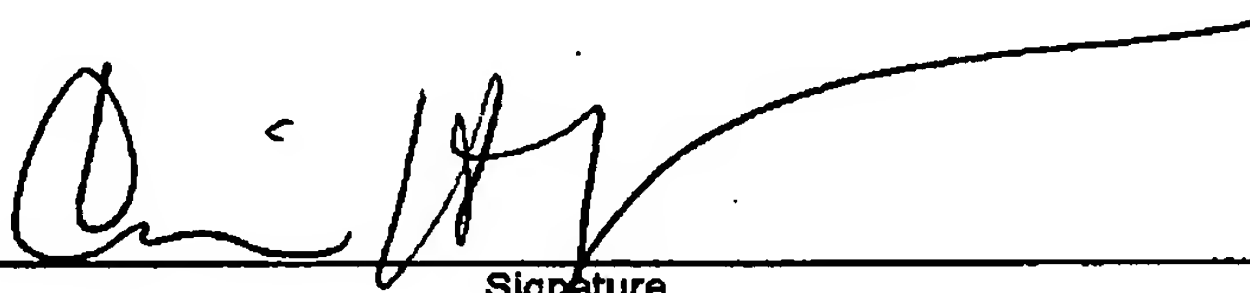
Application No. (if known): 10/003,211

Attorney Docket No.: BGN-A013CN

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PTO/SB/17 (06-07)

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|   |  |                          |                        |
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| Effective on 12/08/2004.<br>Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).<br><b>FEE TRANSMITTAL</b><br><b>For FY 2007</b> |  | <b>Complete if Known</b> |                        |
| <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27  |  | Application Number       | 10/003,211-Conf. #6970 |
|   |  | Filing Date              | October 31, 2001       |
|   |  | First Named Inventor     | Jeffrey L. BROWNING    |
|   |  | Examiner Name            | Christopher H. Yaen    |
|   |  | Art Unit                 | 1643                   |
| TOTAL AMOUNT OF PAYMENT   |  | (\$)                     | 130.00                 |
|   |  | Attorney Docket No.      | BGN-A013CN             |

## METHOD OF PAYMENT (check all that apply)

☐ Check    ☐ Credit Card    ☐ Money Order    ☐ None    ☐ Other (please identify): \_\_\_\_\_

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☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17    ☒ Credit any overpayments

## FEE CALCULATION

## 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

| Application Type | FILING FEES |                       | SEARCH FEES |                       | EXAMINATION FEES |                       | Fees Paid (\$) |
|------------------|-------------|-----------------------|-------------|-----------------------|------------------|-----------------------|----------------|
|                  | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)    | Small Entity Fee (\$) | Fee (\$)         | Small Entity Fee (\$) |                |
| Utility          | 300         | 150                   | 500         | 250                   | 200              | 100                   |                |
| Design           | 200         | 100                   | 100         | 50                    | 130              | 65                    |                |
| Plant            | 200         | 100                   | 300         | 150                   | 160              | 80                    |                |
| Reissue          | 300         | 150                   | 500         | 250                   | 600              | 300                   |                |
| Provisional      | 200         | 100                   | 0           | 0                     | 0                | 0                     |                |

## 2. EXCESS CLAIM FEES

| Fee Description                                    | Fee (\$) | Small Entity Fee (\$) |
|--|----------|-----------------------|
| Each claim over 20 (including Reissues)            | 50       | 25                    |
| Each independent claim over 3 (including Reissues) | 200      | 100                   |
| Multiple dependent claims                          | 360      | 180                   |

Total Claims    Extra Claims    Fee (\$)  
 - - - - - x - - - - - =

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims    Extra Claims    Fee (\$)  
 - - - - - x - - - - - =

HP = highest number of independent claims paid for, if greater than 3.

## 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets    Extra Sheets    Number of each additional 50 or fraction thereof    Fee (\$)  
 - 100 =    /50 =    (round up to a whole number) x    =

## 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1814 Statutory Disclaimer

Fees Paid (\$)

130.00

|                   |                                   |        |                          |
|-------------------|-----------------------------------|--------|--------------------------|
| SUBMITTED BY      |                                   |        |                          |
| Signature         | Registration No. (Attorney/Agent) | 55,281 | Telephone (617) 994-0796 |
| Name (Print/Type) | Cristin E. Howley, Ph.D.          | Date   | August 16, 2007          |

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Dated: August 16, 2007

Signature: \_\_\_\_\_ (Cristin E. Howley, Ph.D.)

AUG 16 2007

**FAX TRANSMISSION****DATE:** August 16, 2007**PTO IDENTIFIER:** Application Number 10/003,211-Conf. #6970  
Patent Number**Inventor:** Jeffrey L. BROWNING**MESSAGE TO:** US Patent and Trademark Office**FAX NUMBER:** (571) 273-8300**FROM:** LAHIVE & COCKFIELD, LLP

Cristin E. Howley, Ph.D.

**PHONE:** (617) 994-0796**Attorney Dkt. #:** BGN-A013CN**PAGES (Including Cover Sheet):** 8**CONTENTS:**  
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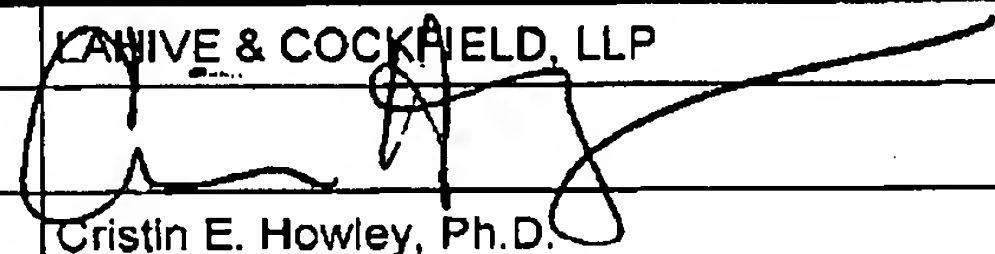
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| <b>TRANSMITTAL<br/>FORM</b><br><br>(to be used for all correspondence after initial filing) | Application Number     | 10/003,211-Conf. #6970 |
|   | Filing Date            | October 31, 2001       |
|   | First Named Inventor   | Jeffrey L. BROWNING    |
|   | Art Unit               | 1643                   |
|   | Examiner Name          | Christopher H. Yaen    |
| Total Number of Pages in This Submission  | Attorney Docket Number | BGN-A013CN             |

**ENCLOSURES (Check all that apply)**

|   |   |  |
|---|---|--|
| <input checked="" type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Reply to Missing Parts/<br>Incomplete Application<br><input type="checkbox"/> Reply to Missing Parts under<br>37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input checked="" type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____<br><input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication<br>to TC<br><input type="checkbox"/> Appeal Communication to Board of<br>Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please<br>Identify below):<br>Submission of Terminal Disclaimer<br>and Certificate of Fax Transmittal |
| <b>Remarks</b>  |   |  |

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**


|              |  |          |        |
|--------------|--|----------|--------|
| Firm Name    | LAHIVE & COCKFIELD, LLP  |          |        |
| Signature    |  |          |        |
| Printed name | Cristin E. Howley, Ph.D.   |          |        |
| Date         | August 16, 2007  | Reg. No. | 55,281 |

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